

REMARKS

Applicants respectfully request reconsideration of this application. Claims 6-16 were pending. Claims 8 and 13 have been canceled without prejudice. Claims 6, 10-11, and 15 have been amended. Claims 6-7, 9-12, and 14-16 remain pending.

Claims 6-9, 11-14, and 16 are rejected under 35 U.S.C. §102(b) as being anticipated by Tanaka et al. (U.S. Patent No. 5,794,020; hereinafter, "Tanaka"). Claims 8 and 13 have been canceled without prejudice and the subject matter of which have been substantially added into their respective base claims. Applicants respectfully traverse the rejection. Claim 6 as amended sets forth:

..., wherein the *data packet* is input to the second input of the detector.

(Claim 6 as amended; emphasis added)

In contrast, Tanaka fails to disclose at least the above limitation. However, the Office Action analogized the judging circuit 7 in Figure 1 of Tanaka to be the detector as claimed and argued that line 134 going into the judging circuit 7 is a data packet input to the second input of the judging circuit (Office Action, p. 3, second paragraph).

According to Tanaka, line 134 in Figure 1 is a receiving unit control signal transmission line for supplying a *control signal* from a control portion of the data transfer apparatus (Tanaka, col. 5, ln. 9-11). A control signal is distinct and separate from a data packet. Therefore, Tanaka does not disclose a data packet input to the second input of the judging circuit 7. As such, Tanaka fails to disclose that a data packet is input to the second input of the detector. For at least this reason, Tanaka fails to anticipate claim 6 as amended. Withdrawal of the rejection is respectfully requested.

Claim 11 as amended is not anticipated by Tanaka for at least the reason discussed above with respect to claim 6. Further, claims 7, 9, 12, 14, and 16 depend from claims 6 and 11, respectively. Thus, claims 7, 9, 12, 14, and 16 are not anticipated by Tanaka for at least the reason discussed above with respect to claims 6 and 11. Withdrawal of the rejection is respectfully requested.

Claims 10 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tanaka. Applicants respectfully traverse the rejection. Claims 10 and 15 have been rewritten into independent form, where each of claims 10 and 15 recites a quadrature phase detector. The Office Action admitted that Tanaka fails to teach that the detector comprises a quadrature phase detector (Office Action, p. 3, last paragraph). However, the Office Action took Official Notice that the concept and the advantages of a quadrature phase detector is old and well known in the art (Office Action, p. 3, last paragraph). The Office Action further argued that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tanaka to include a quadrature phase detector because of the high sensitivity of the quadrature phase detector (Office Action, p. 4, first paragraph). Applicants respectfully disagree with the Office Action for at least the following reasons.

According to current case law, it would not be appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of *instant and unquestionable demonstration as being well-known*. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d 1088, 1091 (Fed. Cir. 1970); see also MPEP 2144.03(A). By asserting that the concept and

advantages of a quadrature phase detector is old and well known in the art, the Office Action asserts specific knowledge of the prior art. Therefore, such an assertion must be supported by citation to some reference work recognized as standard in the art of semiconductor circuit design under current case law.

If the Examiner is relying on facts which are not of record as common knowledge to arrive at Applicants' claim limitation noted above, then the **Examiner is respectfully requested to provide evidentiary support of such**. The Examiner's attention is directed to MPEP 2144.03(C). Absent such submission of evidentiary support, Applicants submit that the rejection of claims 10 and 15 under 35 U.S.C. §103(a) based solely on Tanaka does not render the claims unpatentable. Therefore, Applicants respectfully submit that claims 10 and 15 are patentable over Tanaka and request withdrawal of the rejection.

Moreover, Tanaka does not disclose, suggest, or imply modifying its judging circuit 7, which is analogized to be the detector as claimed, to include a quadrature phase detector. Specifically, Tanaka does not disclose, suggest, or imply that its judging circuit 7 suffers from low sensitivity nor it would have been desirable to improve the judging circuit by including a quadrature phase detector. It would be *impermissible hindsight*, based on Applicants' own disclosure, to make such a modification. Therefore, claims 10 and 15 are patentable over Tanaka for this reason as well. Withdrawal of the rejection is respectfully requested.

CONCLUSION


In view of the foregoing remarks, it is respectfully submitted that the rejections have been overcome and the pending claims are now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call C. Teresa Wong at (408) 720-8300.

Pursuant to 37 C.F.R. §1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. §§1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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